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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of)		
)		
John C. Harvey and James W. Cuddihy)	Examiner:	Vu, H.
)		
Serial No. 08/446,431)	Art Unit:	2733
)		
Filed: May 22, 1995)	Atty Dkt.	5634.150
)		
For: SIGNAL PROCESSING APPARATUS)		
AND METHODS)		
)		

Honorable Commissioner of Patents
and Trademarks
Washington, D.C. 20231

Sir:

SUBMISSION OF DECLARATION UNDER 37 C.F.R. § 1.131

In the Office Action mailed on December 23, 1997, the examiner rejected pending claims 3-46 under 35 U.S.C. § 102(a) based on the PCT publication date of October 15, 1981, listed on the disclosure of United States Patent No. 4,536,791 to Campbell, et al. ("Campbell"). In response to the rejection based on the Campbell PCT publication date, applicants submit herewith (attached as appendix A), pursuant to 37 C.F.R. § 1.131, the declaration of applicant John C. Harvey. The applicants submit the declaration for the purpose of removing Campbell as a reference by demonstrating the applicants' own invention of the subject matter claimed in at least claims 3-21 and 27-34.

The declaration of applicant, John C. Harvey, as supported by a five page letter written by John C. Harvey, clearly demonstrates a conception of the invention which is

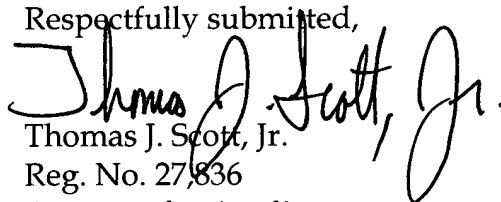
the subject matter of this application prior to October 15, 1981, the effective date of Campbell, and due diligence from prior to that date to the filing of the application upon which the present application claims priority. See standards for proving prior invention set forth in Hybritech, Inc. v. Monoclonal Antibodies, Inc., 802 F.2d 1367, 231 USPQ 81 (Fed. Cir. 1986), cert. denied, 480 U.S. 947 (1987); Lacotte v. Thomas, 758 F.2d 611, 225 USPQ 633 (Fed. Cir. 1985); Reese v. Hurst, 661 F.2d 1222, 211 USPQ 936 (CCPA 1981); Berges v. Gottstein, 618 F.2d 771, 205 USPQ 691 (CCPA 1980).

CONCLUSION

In accordance with the foregoing it is respectfully submitted that as to at least claims 3-21 and 27-34, Campbell is not prior art. Further, all rejections of these claims are based solely on Campbell. Thus, at least claims 3-21 and 27-34 are submitted as being in a condition for allowance, which action is earnestly solicited.

If the Examiner has any remaining informalities to be addressed, it is believed that prosecution can be expedited by the Examiner contacting the undersigned attorney for telephone interview to discuss resolution of such informalities.

Date: February 23, 1998
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Respectfully submitted,

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